

REMARKS

Reconsideration is requested.

Claims 13-36 are pending. Claims 16 and 28-36 have been withdrawn from consideration.

The Section 103 rejection of claims 13-15 and 17-24 over Carson (U.S. Patent No. 5,416,075) in view of Garofano (U.S. Patent No. 6,495,153), is traversed.

Reconsideration and withdrawal of the rejection are requested in view of the following distinguishing comments.

The presently claimed invention involves the use of oils to prevent adhesion of microorganisms on the surface of the skin without the need of specific bactericidal or antimicrobial compounds.

The compositions according to presently claimed invention are not used for an antimicrobial activity and the method of reduction of microorganisms of claim 13 does not involve antibiotic, bactericidal or fungicidal compounds. Moreover, the compounds recited in the methods of claims 14 and 15 do not have bactericidal properties.

The Examiner's acknowledgement that the claims are patentable over Wright (U.S. Patent No. 5,547,677) is noted with appreciation.

Wright is understood to disclose cosmetic compositions containing lipids. Among them, is cited olive oil. However, this document clearly discloses that the emulsions are for an antibacterial purpose and that they have a microbicidal activity against a broad spectrum of bacteria and several yeasts (col 1, lines 15-16).

The olive oil cited in document of Wright, is not believed to be bactericidal since olive oil is not responsible for the ability to inactivate infectious pathogens. The ability to

inactivate pathogens is vested in Wright in the cationic halogen-containing compound having a C12-C16 chain.

The Examiner has withdrawn the previous Section 103 rejection of the claims over Wright and asserted that the noted claims are allegedly obvious over Carson and Garofano. The claims are submitted to be patentable over the combination of Carson and Garofano for at least the following reasons.

Carson is understood to disclose oil in water emulsions in which oil droplets carry amphipathic molecules with biospecific head groups, possibly recognized by microorganisms and/or by biological surfaces (see column 2, lines 59-61). The compositions of Carson are understood to optionally include antimicrobial compounds (see claims 8 and 10; col 3, lines 62-66; col 5, lines 8-13; col 8, lines 49-53 and 57-58; and Example 11 of Carson). It would have been contrary to the preference of Carson for inclusion of antimicrobial compounds to provide a method, as claimed, which specifically excludes use of a composition containing antibiotic, bacterial or fungicidal agents.

The Examiner is understood to believe that Carson allegedly only differs from the presently claimed invention in the mention of interfacial tension and disruption of the ecological balance among the resident flora in the claimed invention.

The applicants submit however that even if one of ordinary skill in the art were to select olive oil out of the array of choices provided by Carson, the olive oil is not used as an active compound but rather as a vehicle to form oil droplets which serve as a substrate for the amphipathic compound (col 7, lines 50-55). Carson includes an

amphipathic compound ingredient to present specific head groups which can be recognized by microorganisms.

The technical effect disclosed in Carson is the result of the use of an amphipathic compound which, via its receptors, recognizes lectin molecules or other adhesins at the surface of the microorganisms. See col 3, lines 40-45 of Carson.

Contrary to the amphipathic compounds of Carson which are able to link with receptors of microorganisms, compositions according to the presently claimed invention act on physicochemical properties of the surface of the skin and mucous membranes. These physicochemical properties involve electrodynamic interactions due to Van der Waals forces, Lewis-type acid-base interactions and electrostatic interactions.

The secondary document, Garofano, not only fails to cure the deficiencies of Carson but teaches the requirement for an anti-fungal component. See Abstract and independent claim 1, for example. Garofano therefore teaches away from the presently claimed method, which specifically excludes use of a composition containing antibiotic, bacterial or fungicidal agents.

More specifically, the applicants note that Garofano teaches the use of anti-fungal and anti-viral compositions containing a mixture of ipe roxo (*Iecoma curiatis*, which is a tree of Amazonia which is understood to have been used since the Incas to treat infections of fungus, parasites, bacteria and virus) as an antibiotic and anti-viral, and goldenseal root (*Hydrastis Canadensis* which is understood to contain powerful alkaloids like berberine and hydrastine) as an antimicrobial. Garofano is believed to mention olive oil to soften skin tissues so as to allow the antifungal components to penetrate the skin to be treated (col 2, lines 4-8).

Contrary to the combination of cited art, the claimed invention involves the use of oils, including olive oil, to reduce adhesion of microorganisms on the skin or mucous membranes. The compositions of the present disclosure are used to reduce adhesion of microorganisms without the use of antibiotics or antifungal or antibacterial compounds. The active component of the claims under consideration is the olive oil.

The claimed methods would not have been obvious from the cited combination of Carson and Garofano. Withdrawal of the Section 103 rejection based on the same is requested.

The Section 103 rejection of claim 25 over Carson, Garofano and Cullinan (U.S. Patent No. 5,439,923), is traversed. Reconsideration and withdrawal of the rejection are requested in view of the above and the following further comments.

Claim 25 is dependent on claim 13 and is patentable over the combination of Carson and Garofano for the reasons noted above with regard to claim 13. Cullinan fails to cure the deficiencies of Carson and Garofano noted above.

The applicants understand Cullinan to teach that acne or seborrhea can be treated with administration of compounds which not only bind to estrogen receptors but also contain estrogen agonist properties and display similar properties as estrogen, such as osteoporosis and hyperlipidemia. See col 3, lines 27-51 of Cullinan. One of ordinary skill in the art would not have been motivated by the cited art, such as Cullinan alone or in combination with Carson and/or Garofano, to have made the claimed invention with a reasonable expectation of success. Withdrawal of the Section 103 rejection of claim 25 is requested.

LEREBOUR et al.
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Response

The claims are submitted to be in condition for allowance and a Notice to that effect is requested. The Examiner is requested to contact the undersigned in the event anything further is required in this regard.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: /B. J. Sadoff/
B. J. Sadoff
Reg. No. 36,663

BJS:
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100